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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8  
999 18<sup>TH</sup> STREET - SUITE 500  
DENVER, CO 80202-2466  
<http://www.epa.gov/region08>

Ref: 8ENF-T

OCT 12 1999

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Michael O. Varner  
Vice President  
ASARCO Incorporated  
180 Maiden Lane  
New York, NY 10038

Re: First Request For Information  
Pursuant To Section 104 of CERCLA  
For The Vasquez Boulevard/I-70 Site  
Denver, CO

Dear Mr. Varner:

This letter seeks your cooperation in providing information and documents that may contribute to EPA's understanding in regard to activities, materials and parties that may have contributed to contamination at the Vasquez Boulevard/I-70 Site (VB I-70) Site. As you are aware, this site includes all or portions of several northeast Denver, Colorado neighborhoods; including Elyria, Swansea, Cole, Clayton and south Globeville. Arsenic, lead, cadmium and zinc contamination has been studied by the Environmental Protection Agency (EPA), working in cooperation with the Colorado Department of Public Health & Environment (CDPHE).

Historically, the Site was a major smelting center for the Rocky Mountain West. Three smelters included the Globe, Omaha-Grant and Argo Smelters (See Enclosed Map). Pursuant to the authority of Section 104 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9604, as amended, you are hereby requested to respond to the Information Request set forth in Enclosure 1, attached hereto.

EPA has to date conducted Emergency Response actions removing soil from residential properties contaminated with high levels of arsenic. The site was added to the EPA Superfund National Priorities List on July 22, 1999 and remedial studies are ongoing. For additional information regarding site cleanup, you may review materials that are maintained at the EPA Superfund Records Center at 999 18th Street, Suite 500, Denver, CO. While EPA seeks your voluntary cooperation in this investigation, compliance with this Information Request is required by law. We encourage you to give this matter your prompt attention. Please provide a complete and truthful response to this Information Request no later than November 30, 1999. Failure



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to provide a timely, complete and truthful response to this Information Request may subject you to civil or criminal penalties under federal law. Instructions for completing this Information Request are included in Enclosure 1. If you make a claim of confidentiality for any of the information you submit to EPA, you must prove that claim, and must separately address the points outlined in Enclosure 1, for each document.

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501 et seq.

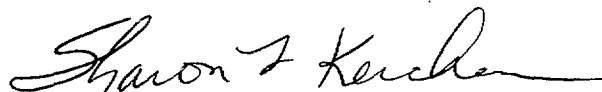
Your response to this Information Request should be mailed to:

U.S. Environmental Protection Agency  
Gregory J. Phoebe  
Technical Enforcement Program  
999 18th Street, Suite 500  
Denver, CO 80202-2466

If you have questions in regard to this Information Request please contact Mr. Phoebe at (303)312-6466. Please direct legal questions to Mr. Matthew Cohn, Legal Enforcement Program at (303)312-6853.

Thank you for your cooperation in this matter.

Sincerely,



Sharon Kercher  
Program Director  
Office of Enforcement Compliance  
and Environmental Justice

Enclosures

cc: Bonnie Lavelle, 8EPR-SR  
Gregory Phoebe, 8ENF-T  
Matthew Cohn, 8ENF-T  
Sharon Abendschan, 8ENF-T  
Linda Larson, Heller Ehrman White & McAuliffe

ENCLOSURE 1

VASQUEZ BOULEVARD/ I-70 SITE

FIRST INFORMATION REQUEST

Instructions

1. Answer Every Question Completely. A separate response must be made to each question set forth in this Information Request. Incomplete, evasive, or ambiguous answers shall constitute failure to respond to this Information Request and may subject you to penalties. For each question contained in this letter, if information responsive to this information request is not in your possession, custody or control, please identify the person(s) from whom such information may be obtained.

2. Number Each Answer. Please indicate at the beginning of each answer the number of the question to which the answers corresponds. Please type or print clearly.

3. Provide the Best Information Available. Provide responses to the best of Respondent's ability, even if the information sought was never put down in writing or if the written documents are no longer available. You should seek out responsive information from current and former employees/agents. Submission of cursory responses when other responsive information is available to the Respondent will be considered non-compliance with this Information Request.

4. Identify Sources of Answers. For each question, please identify all documents consulted (See Definitions) all the persons and documents you relied on in producing your answers.

5. Submit Documents with labels Keyed to Question. For each question, please identify all documents consulted in the preparation of the answer. If for any reason you are withholding any documents that may be responsive to this Information Request, identify the document(s) and state the basis for withholding the document(s).

6. Continuing Obligation to Provide/Correct Information. If additional information or documents become known or available to you after you respond to this request, EPA hereby requests pursuant to CERCLA Section 104(e) that you supplement your response to EPA.

7. Complete a Notarized Certificate. You are required to complete a Notarized Certificate that certifies that the information you are providing in response to this Information Request is true, accurate, and complete. A sample format is included in Enclosure 2.

8. Confidential Information. The information requested herein must be provided even though the Respondent may contend that it includes possibly confidential information or trade secrets. You may, if you desire, assert a confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e) (7) (E) and (F) of CERCLA, as amended by SARA, 42 U.S.C. 9604(e) (7) (E) and (F), Section 3007(b) or RCRA, 42 U.S.C. 6927 (b), and 40 CFR 2.203 (b), by attaching to such information at the time it is submitted, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," or "proprietary" or "company confidential." Information covered by such a claim will be disclosed by EPA only to the extent, and only by means of the procedures set forth in 40 C.F.R. Part 2, 41 Fed Reg. 36,902 (1976) (amended at 43 Fed. Reg. 40,000 (1978), and 50 Fed. Reg. 51,661 (1985)). If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to you. You should read the above cited regulations carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim. To prove your claim of confidentiality, each document must separately address the following points:

1. The portion of the information alleged to be entitled to confidential treatment;
2. The period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
3. Measures taken by you to guard against the undesired disclosure of the information to others;
4. The extent to which the information has been disclosed to others, and precautions taken in connection therewith;
5. Pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determinations or reference to them, if available; and
6. Whether you assert that disclosure of the information would likely result in substantial harmful effects on your business' competitive position, and if so, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

9. Disclosure to EPA Contractor. Information which you submit in response to this Information Request may be disclosed by EPA to authorized representatives of the United States, pursuant to 40 C.F.R. 2.310(h), even if you assert that all or part of it is confidential business information. Please be advised that EPA intends to disclose all responses to this Information Request to one or more of its private contractor list Contractors for the purpose of organizing or analyzing the information contained in the responses to this Information Request. If you are submitting information, which you assert is entitled to treatment as confidential business

information, you may comment on this intended disclosure within (14) business days of receiving this Information Request.

### Definitions

The following definitions shall apply to the following words as they appear in this Enclosure 1:

1. The term "you" or "Respondent" shall mean the addressee of this Request, the addressee's officers, managers, employees, contractors, trustees, partners, successors, assigns, agents, subsidiaries, affiliates and predecessors-in-interest.
2. The term "person" shall have the same definition as in Section 101(21) of CERCLA: an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, United States Government, State, municipality, commission, political subdivision of a State, or any interstate body.
3. The terms "the Site" or "the Facility" for purposes of this Information Request shall, include the sites of the former and current Omaha and Grant Smelter, the Argo Smelter (also known as Boston and Colorado Smelter) and the Globe Smelter and additionally shall include neighborhoods surrounding these smelter operations.
4. The term "hazardous substance" shall have the same definition as that contained in Section 101(14) of CERCLA and includes any mixtures of such hazardous substances with any other substances, including petroleum products.
5. The term "pollutant or contaminant" shall have the same definition as that contained in Section 101(33) of CERCLA, and includes any mixtures of such pollutants and contaminants with any other substances, including petroleum products.
6. The term "hazardous waste" shall have the same definition as that contained in Section 1004(5) of RCRA.
7. The term "solid waste" shall have the same definition as that contained in Section 1004 (27) of RCRA.
8. The term "materials" shall mean all substances that have been generated, treated, stored, or disposed of or otherwise handled at or transported to the Site, including but not limited to all hazardous substances, pollutants and contaminants, hazardous wastes and solid wastes, as defined above.
9. The term "hazardous materials" shall mean all hazardous substances, pollutants or contaminants, and hazardous wastes, as defined above.

10. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.

11. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship) to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any and a brief description of its business.

12. The term "identify" means, with respect to a document, to provide its customary business description, its date, its number if any (invoice or purchase order number), and the substance or subject matter.

13. The term "release" has the same definition as that contained in Section 101(22) of CERCLA, 42 U.S.C. 9601 (22), and includes any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment, including the abandonment or discharging of barrels, containers, and other closed receptacles containing any hazardous substances or pollutant or contaminant.

14. The term "document" and "documents" shall mean any writing, recording or stored information including, but not limited to, hard copy and computer document files.

15. The term "arrangement" means every separate contract or other agreement between two or more persons.

16. The term "transaction" or "transact" mean any sale, transfer, giving, delivery, change in ownership, or change in possession.

17. The term "property interest" means any interest in property including an easement or right of way, any interest in the rental of property, any interest in a corporation that owns or rents or owned and rented property, and any interest as either the trustee or beneficiary or trust that owns or rents property.

## QUESTIONS

### A. Globe Smelter, 495 East 51st Denver, CO:

1. Detail the date(s) and fully describe the operations over time of Respondent at the Globe Smelter facility.

2. Excluding out-of-state shipments of product, identify whether soil (e.g., sand, loam, fill) or any other materials, including but not limited to, materials containing arsenic (e.g., slag, flue dust,

arsenic trioxide, debris) have been excavated or removed (to include any sale, transfer, giving, change in ownership, or change in possession) from the Site by Respondent or others. If so, detail:

- a. Amount and date(s) of soil or other materials removed from Site;
  - b. Physical and chemical nature of materials removed;
  - c. Identity of person(s) who removed materials and date(s) of removal;
  - d. Final disposition of such materials.
3. Identify releases of chemical(s) to the environment from the Site including location(s) and dates of such releases. For each such release, include the chemical(s) name and amount.
4. Provide a complete document index including, but not limited to, those documents which may provide information in regard to the following:
  - a. Information on historical and current operations at the Site, including but not limited to, a detailed description of process flow, designed capacity, operating efficiency, production rates, quantities of raw materials processed, quantity and origin of mineral ores used at the Site, quantity of product shipped from the Site and waste disposal practices;
  - b. Scientific reports or documents discussing material releases on or about the Site, including but not limited to the nature and extent of smelter emission releases;
  - c. Current and historical title and ownership/lease information regarding the Site;
  - d. Transaction documents supporting information provided in response to question 2 above;
  - e. Scientific reports analyzing soils, including those neighborhoods in vicinity of the Site;
  - f. Current and historical maps (including current and historical aerial maps) of the Site;
  - g. Permits related to the Site;
  - h. Environmental studies commissioned or acquired regarding the Site;

- i. Sampling data in regard to the Site including surrounding neighborhood;
- j. Correspondence (e.g., reports, memorandums, letters, email) addressing contaminants on or about the Site;
- k. Health studies;
- l. Legal documents/files relative to the nature, extent and cause of environmental contaminants on or about the Site;
- m. Listing and general description of pending and settled legal actions in regard to the Site and attorney representing Respondent and Plaintiff; and
- n. Chemical analyses of product produced at the Site.

B. Omaha and Grant Smelter, (former operations included approximately 50 acres south of current Denver Coliseum southward near 42nd Avenue and St. Vincent Street):

- 1. Fully describe and provide documents detailing the corporate history of ASARCO including, but not limited to, ASARCO's association with The American Smelting and Refining Company and with Omaha Grant Smelting Company.
- 2. Provide a legal description of the property or properties The American Smelting and Refining Company acquired, upon which the Omaha and Grant Smelter facility operated.
- 3. Provide copies of all documents evidencing or relating to the property or properties identified in response to #2 above, including but not limited to, ownership, operation or lease information. Include copies of purchase and sale agreements, deeds, leases etc.
- 4. Describe the period(s) Asarco or its predecessors held the Omaha and Grant Smelter facility and describe any and all uses of the property during that period.
- 5. Identify and provide title documents showing transfer of the property or properties comprising the Omaha and Grant Smelter facility and identify the current and historical owner(s) of the property or properties. Additionally, provide any information you may have in regard to property use subsequent to sale of the property or properties by Respondent.



6. Provide any current or historical map you may have in regard to the Omaha and Grant Smelter facility.
7. Provide any reports you may have in regard to historical operations conducted at the Omaha and Grant Smelter facility including, but not limited to, a detailed description of process flow, designed capacity, operating efficiency, production rates, quantities of raw materials processed, quantity and origin of mineral ores used at the Site, quantity of product shipped from the Site and waste disposal practices.
8. Describe and, where available, provide maps that describe the physical characteristics of the Site, including but not limited to the following:
  - a. Surface structures;
  - b. Ground water wells;
  - c. Ore treating facilities;
  - d. Additions, demolitions, changes to the physical structures on or about the Site property; and
  - e. Any structures designed and/or operated to collect flue dust.
9. Identify and describe all tailings piles, tailings ponds, waste rock dumps, product storage piles, flue dust piles, and slag heaps at the Site that you have knowledge of. Include the following:
  - a. The location of all former piles, ponds, dumps, stockpiles and heaps;
  - b. The source of materials contained in those former piles, ponds, dumps, stockpiles or heaps;
  - c. A description of the materials in those piles, ponds, dumps, stockpiles or heaps and any information or documents that relate to the transport by water or wind or other means of materials from those piles, ponds, dumps or heaps to another area;
  - d. All current or historical information you may have in regard to smelter emissions or other hazardous substance releases at the facility.
10. Excluding out-of-state shipments of product, identify whether soil (e.g., sand, loam, fill) or any other materials, including but not limited to, materials containing arsenic (e.g.,

slag, flue dust, arsenic trioxide, debris) have been excavated or removed (to include any sale, transfer, giving, change in ownership, or change in possession) from the Site by Respondent or others. If so, detail:

- a. Amount and date(s) of soil or other materials removed from Site;
- b. Physical and chemical nature of materials removed;
- c. Identity of person(s) who removed materials and date(s) of removal;
- d. Final disposition of such materials.

11. Provide a complete document index including, but not limited to, those documents which may provide information in regard to the following:

- a. Information on historical and current operations at the Site, including but not limited to, a detailed description of process flow, designed capacity, operating efficiency, production rates, quantities of raw materials processed, quantity and origin of mineral ores used at the Site, quantity of product shipped from the Site and waste disposal practices;
- b. Scientific reports or documents discussing material releases on or about the Site, including but not limited to the nature and extent of smelter emission releases;
- c. Current and historical title and ownership/lease information regarding the Site;
- d. Transaction documents supporting information provided in response to question 2 above;
- e. Scientific reports analyzing soils, including those neighborhoods in vicinity of the Site;
- f. Current and historical maps (including current and historical aerial maps) of the Site;
- g. Permits related to the Site;
- h. Environmental studies commissioned or acquired regarding the Site;
- i. Sampling data in regard to the Site including surrounding neighborhood;

- j. Correspondence (e.g., reports, memorandums, letters, email) addressing contaminants on or about the Site;
- k. Health studies;
- l. Legal documents/files relative to the nature, extent and cause of environmental contaminants on or about the Site;
- m. Listing and general description of pending and settled legal actions in regard to the Site and attorney representing Respondent and Plaintiff; and
- n. Chemical analyses of product produced at the Site.

C. Argo Smelter (a.k.a. Boston and Colorado Smelter), approximate 80 acre facility bounded by 48th Avenue on the north, Interstate 70 on the south, Lincoln Street on the east and Huron Street on the west:

- 1. Provide all information and documents you may have in regard to operations of the historical Argo Smelter.
- 2. Provide all environmental studies or reports which you may have in regard to contaminants on or about the Argo Smelter facility.

D. Residential Neighborhoods Surrounding Smelter Facilities (e.g. Elyria, Swansea, Cole, Clayton, Globeville):

- 1. Furnish all additional information, documents or reports you may have in regard to the source and transport of materials and contaminants located the above cited neighborhoods.
- 2. Provide a listing and a brief summary of all environmental studies you have acquired or commissioned in regard to contamination in the above cited neighborhoods.

ENCLOSURE 2

NOTARIZED CERTIFICATE

I, \_\_\_\_\_, having been duly sworn and being of legal age, hereby state:

1. I am the person authorized by \_\_\_\_\_ to respond to the Environmental Protection Agency's (EPA's) request for information concerning the Vasquez Boulevard & I-70 Site located in Denver, Colorado.
2. I have made a complete and thorough review of all documents, information, and sources relevant to the request.
3. I hereby certify that the attached response to EPA's request is true, accurate, and complete and contains all information and documents responsive to the request.

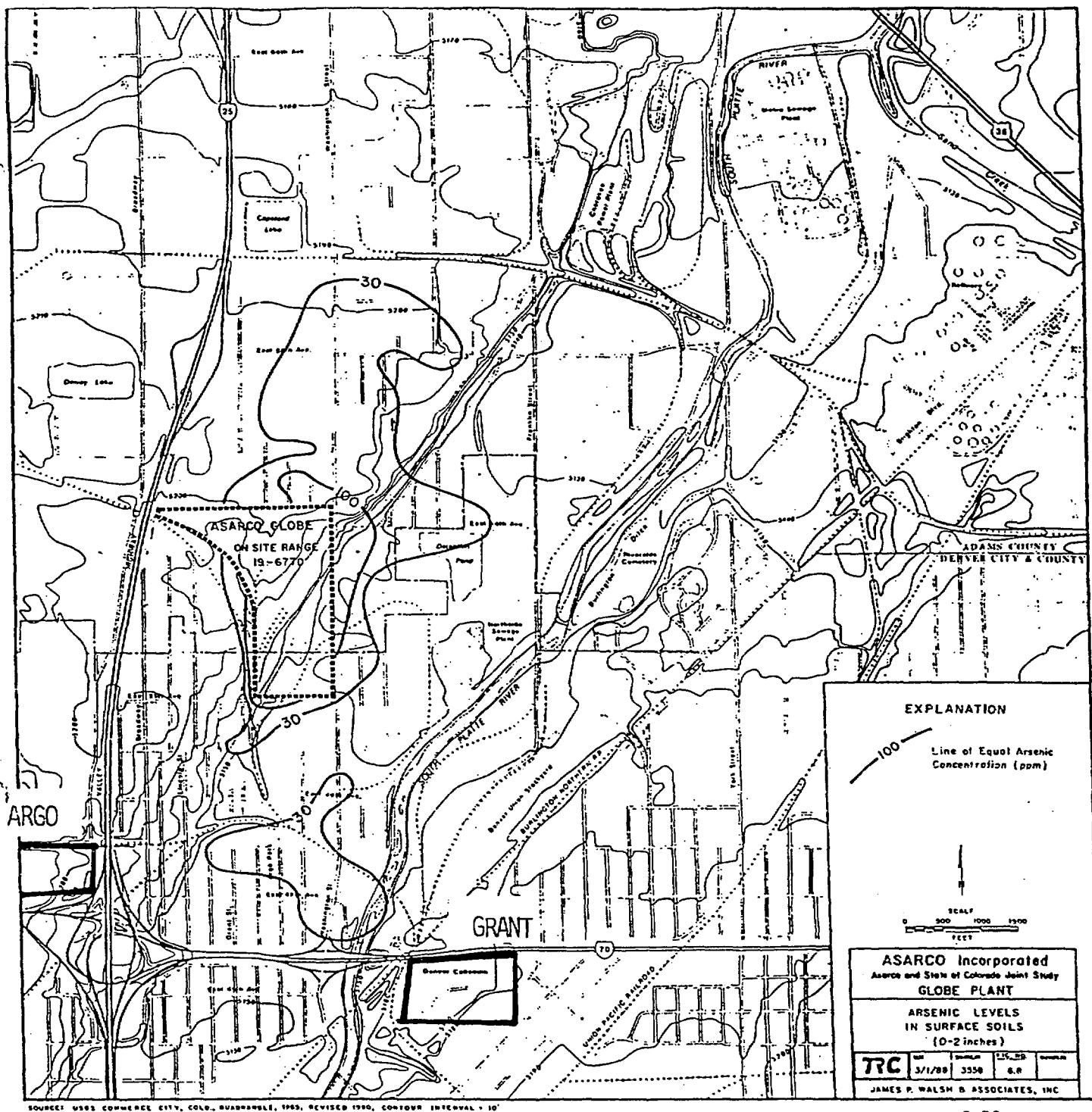
(SEAL)

\_\_\_\_\_  
(Signature) (Name, Title)

Subscribed and sworn to me  
this \_\_\_\_ day of \_\_\_\_\_,  
1999.

\_\_\_\_\_  
Notary Public

My Commission Expires \_\_\_\_\_  
My address is \_\_\_\_\_  
\_\_\_\_\_



6-30

FIGURE 8A

ARSENIC LEVELS IN  
SOILS